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## UNITED STATES PATENT AND TRADEMARK OFFICE

Application serial no. 09/750,009

Filed: December 27, 2000

Examiner: Thomas Duong

Art unit: 2145

Confirmation no. 6616

Attorney docket no. FREI.P049

## RESPONSE TO OFFICE ACTION

This paper responds to the Office Action dated June 1, 2005. Attached please find Forms PTO-2038 and PTO/SB/22.

All claims stand rejected over two-way combination of US Patent Number 6,802,067 to Camp et al. ("Camp") and US Patent Number 6,804,818 to Codella et al. ("Codella"). The Examiner expresses the view that "it would have been obvious at the time the invention was made to combine the teachings of Codella with the teachings of Camp."

**The teachings could not have been combined until October 12, 2004, more than three years after the filing date of the application.** It is noted that each of these reference was cited by the Examiner for the first time in the June 1, 2005 Office Action; neither had been cited in the March 8, 2004 Office Action nor in the October 1, 2004 Office Action. The reason for this late citation by the Examiner is apparent – Camp was first available to the public only on October 5, 2004 and Codella was first available to the public only on October 12, 2004.

Stated plainly, the first date upon which *anyone* could have "combine[d] the teachings of Codella with the teachings of Camp" was October 12, 2004, when the teachings of the two references were for the first time available to the public. This is well over three years since the filing date of the present application.

If the Examiner's view were to be accepted, it would have been necessary that one skilled in the art would have come to know the secret contents of a first patent application and